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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/735,159	12/12/2003	Georg Fischer	071308.0492	3421
31625 7590 11/05/2008 BAKER BOTTS L.L.P. PATENT DEPARTMENT 98 SAN JACINTO BLVD., SUITE 1500 AUSTIN, TX 78701-4039				
EXAMINER				
NGO, HUNG V				
ART UNIT		PAPER NUMBER		
2831				
MAIL DATE		DELIVERY MODE		
11/05/2008		PAPER		

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

UNITED STATES PATENT AND TRADEMARK OFFICE

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BEFORE THE BOARD OF PATENT APPEALS  
AND INTERFERENCES

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*Ex parte* GEORG FISCHER,  
HARALD HOLZER,  
ANDREAS REKOFKY,  
and KARL SMIRRA

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Application No. 10/735,159  
Technology Center 2800

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Mailed: November 4, 2008

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Before CHERYL A. MOORE, Reviewing Paralegal.  
MOORE, Reviewing Paralegal.

ORDER RETURNING UNDOCKETED APPEAL TO EXAMINER

This application was electronically received by the Board of Patent Appeals and Interferences on July 7, 2008. A review of the application revealed that it is not ready for docketing as an appeal. Accordingly, the application is herewith being returned to the Examiner to address the following matter requiring attention prior to docketing.

### **INFORMATION DISCLOSURE STATEMENT**

Appellants filed an Information Disclosure Statement (IDS) dated May 24, 2007. In a Miscellaneous Communication from the Examiner on November 5, 2007, the Examiner states "The information disclosure statement filed 05/24/07 fails to comply with 37 CFR 1.97(d) because it lacks a statement as specified in 37 CFR 1.97(e). It has been placed in the application file, but the information referred to therein has not been considered."

While it appears the Examiner may have considered the above IDS in this communication, the Examiner has not provided a PTO-1449 that has been initialed or crossed through, and the Examiner's signature or initials have not been provided at the bottom of the PTO-1449. MPEP § 609 requires the Examiner to consider any IDS filed by Applicants if timely submitted. A proper written communication notifying Applicants of the Examiner's consideration of the above IDS is required.

### **CONCLUSION**

Accordingly, it is

ORDERED that the application is returned to the Examiner to:

- 1) submit a proper PTO-1449 with initials and date of consideration,  
and
- 2) for such further action as may be appropriate.

If there are any questions pertaining to this Order, please contact the Board of Patent Appeals and Interferences at 571-272-9797.

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